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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) | | | | | | | | | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____ | Application Number 10/660,545 | Filed 9/12/2003 | | | | | | | | | |
| | First Named Inventor Arto PALIN | | | | | | | | | | |
| | Art Unit 2617 | Examiner Joel Ajayi | | | | | | | | | |
| <p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; text-align: center;">_____/Jeffrey W. Gluck/_____ Signature</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; text-align: center;">_____ Jeffrey W. Gluck Typed or printed name</td></tr><tr><td style="vertical-align: top;"><input type="checkbox"/> attorney or agent of record. Registration number _____</td><td style="vertical-align: top; text-align: center;">_____ 202-331-7111 Telephone number</td></tr><tr><td style="vertical-align: top;"><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>44,457</u></td><td style="vertical-align: top; text-align: center;">_____ August 2, 2007 Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> | | | | <input type="checkbox"/> applicant/inventor. | _____/Jeffrey W. Gluck/_____ Signature | <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | _____ Jeffrey W. Gluck Typed or printed name | <input type="checkbox"/> attorney or agent of record. Registration number _____ | _____ 202-331-7111 Telephone number | <input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>44,457</u> | _____ August 2, 2007 Date |
| <input type="checkbox"/> applicant/inventor. | _____/Jeffrey W. Gluck/_____ Signature | | | | | | | | | | |
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| <input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>44,457</u> | _____ August 2, 2007 Date | | | | | | | | | | |
| <input type="checkbox"/> *Total of <u>1</u> forms are submitted. | | | | | | | | | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Remarks – Attachment to Pre-Appeal Brief Request for Review

Applicants thank the Examiner for the careful consideration given this application. Applicants also thank the Examiner for the helpful interview of August 1, 2007.

Claims 1, 3-13, 15-17, and 19-23 are currently pending in this application, all of which have been rejected, as will be discussed below.

In particular, at pages 2-8, the Office Action rejects Claims 1, 3-13, 15-17, and 19-23 under 35 U.S.C. § 103(a) as being unpatentable over Armantrout (U.S. Patent No. 6,349,199) in view of Tomlinson, Jr. et al. (U.S. Patent Application Publication No. 2003/0100288). These rejections are respectfully traversed for at least the following reasons.

Claim 1 is directed to “[a] method of controlling a multicast transmission” and includes a limitation of “transmitting a data packet to a plurality of devices.” The other independent claims (Claims 13, 17, and 21) similarly discuss transmission of a packet to a plurality of devices. The Office Action at page 3 asserts that “Armantrout clearly discloses a method of controlling a multicast transmission (abstract, column 3, lines 11-59; column 4, lines 14-25; column 5, lines 22-58)” and that these same passages of Armantrout disclose the transmitting of a data packet to a plurality of devices. However, nowhere in the cited passages, or anywhere else in Armantrout, can such disclosures be found. Armantrout, as discussed, for example, at col. 1, lines 7-10, is directed toward “single line fixed cellular terminals adapted to provide continuous and reliable telephone service.” Similarly, at col. 3, lines 11-14, Armantrout discusses using “a fixed cellular terminal to connect a non-mobile telephone communication device to a cellular telephone

network.” Similar and more detailed passages may be found throughout the cited (and uncited) portions of Armantrout. In other words, ***Armantrout does not at all deal with multicast communications; Armantrout deals with point-to-point communications. Accordingly, Armantrout does not transmit a data packet to a plurality of devices, as claimed in Claim 1.***

During the aforementioned interview, the Examiner explained that he was taking a broad view of Armantrout to understand that a message coming from the network (i.e., the Examiner explained that he was taking a broad view of network to include a device transmitting across the network) could be multicast to multiple devices (e.g., ref. nums. 24, 26, and 28 in Fig. 1) connected to a single-line fixed cellular terminal (SLT; ref. num. 10 in Fig. 1). Even if this is true (and Applicants do *not* concede this), as noted at col. 4, lines 16 ff., the devices are connected to the SLT 10 via hardwired connections, and transmission of a data packet to them would not be via a UWB wireless network, as claimed, e.g., in Claim 1. ***Thus, Armantrout fails on this point, as well.***

Furthermore, even if one were to accept the above reading of Armantrout (which Applicants do not), it is respectfully submitted that under this reading, Armantrout would also fail to have a device from across the network receive an acknowledgment transmission from the devices, such as 24, 26, and 28, e.g., as claimed in Claim 1. Armantrout discloses no acknowledgment protocol for these devices, or even for the SLT 10 to acknowledge receipt of a data packet from across the network. In fact, as shown in Figs. 1 and 2 and explained, e.g., at cols. 5-6, the protocol described for use by SLT 10 is to send a registration message to the network and to either receive or not receive (from the network) a timely acknowledgment. A device, such as one designated by ref. nums.

24, 26, or 28, is not involved at all in sending or receiving cellular network registration messages, and is also not involved in sending acknowledgments in response to such messages. Therefore, the Examiner's reading of Armantrout is untenable, and

Armantrout fails to disclose what the Office Action asserts it discloses.

In view of this, it is respectfully submitted that Armantrout is not relevant to the claimed invention and that the rejections should be withdrawn.

Furthermore, the Office Action states, at page 3, that Armantrout discloses all of the subject matter of Claim 1 except “[a]n ultra wideband (UWB) wireless network; and retransmission.” (Note that the Office Action also recites related deficiencies in Armantrout with respect to the other independent claims.) At page 4, the Office Action relies on Tomlinson, Jr. et al. to remedy these deficiencies. However, again, one must look at the system that is disclosed in Armantrout. The purpose of that system, as noted above, is to provide “single line fixed cellular terminals adapted to provide continuous and reliable telephone service.” As discussed in the recited passages of Armantrout, the fixed cellular terminal sends periodic registration messages to the cellular telephone network (as noted at col. 4, lines 11-12, this is typically through a cellular tower (a single point)), receives acknowledgments of those message, counts the number of consecutive acknowledgments not timely received, and initiates correction of a failure of interaction when the count reaches a threshold (see, e.g., the abstract). This is further discussed at col. 5, lines 53-67 and col. 6, lines 1-9, where it is made clear that this is a procedure for *detecting* a link failure.

On the other hand, the cited portions of Tomlinson, Jr. et al. (e.g., paragraphs 15 and 16) discuss a retransmission scheme that is used when data packets are found to have

errors, a means for providing *error correction*. That is, a positive/negative (ACK/NAK) scheme is used to inform the sending site when packets have errors, so that retransmission can be undertaken.

As a result, there are a number of problems in combining the teachings of Tomlinson, Jr. et al. with the teachings of Armantrout. The purpose of Armantrout is to detect unreliable communications by transmitting registration packets and determining when they are not acknowledged, and to thereby permit the implementation of corrective measures because it is understood that the point-to-point communications link has failed. The scheme of Armantrout is *not concerned with data integrity* and has no use for retransmission capabilities. If the purpose of a system is to detect the occurrence of a lack of reception of test (registration) packet by means of a lack of acknowledgment, there is no need for correction, and to add retransmission capability merely adds additional, unnecessary complexity. Furthermore, it is conceivable that adding such a capability could *interfere* with the efficient detection of a link failure and thereby negate or impede the purpose of Armantrout.

Therefore, it is respectfully submitted that one of ordinary skill in the art would *not* be motivated to combine the teachings of Tomlinson, Jr. et al. with those of Armantrout. Thus, it is further submitted that the rejections of all claims under this combination of references should be withdrawn.

Applicants may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.